

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 409 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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MALLIKA SARABHAI TRUST NO 12

Versus

COMMISSIONER OF INCOME-TAX

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Appearance:

MR R.K.PATEL and B.D.Karia for Petitioner  
MR MANISH R BHATT for Respondent.

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CORAM : MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE M.C.PATEL

Date of decision: 30/07/98

ORAL JUDGEMENT

The following questions are referred for the opinion of this Court:-

"Whether on the facts and in the circumstances of the case, the Tribunal was right in law in

holding that the assessee was not entitled to exemption u/s 47(vii) of the Income Tax Act, 1961?"

"Whether, the Appellate Tribunal is right in law and on facts in holding that when the assessee received shares debentures and bonds of amalgamated companies, there was no transfer under section 2(47) of the Incometax Act and consequently no capital gains tax could be charged?"

The matter was decided in favour of assessee in view of the earlier decision by the authorities, including the Income Tax Appellate Tribunal, and the concession made before the Tribunal. In fact, in COMMISSIONER OF INCOME-TAX v. LEENA SARABHAI (N.CH.), 221 ITR 520, when the matter reached this Court, in view of peculiar facts and circumstances, the question was left unanswered. In these circumstances, this reference also stands disposed of unanswered. In the facts and circumstances, no order as to costs.

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